

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION**

**CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 445**

**Call to Order:** By **CHAIRMAN KIM GILLAN**, on April 18, 2005 at 8:15 A.M., in Room 350 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Kim Gillan, Chairman (D)  
Rep. Joan Andersen, Chairman (R)  
Rep. Kathleen Galvin-Halcro (D)  
Sen. Jeff Mangan (D)  
Sen. Dan McGee (R)  
Rep. Dan Villa (D)  
Rep. John Ward (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Annie Glover, Committee Secretary  
Eddye McClure, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: None.  
Executive Action: SB 445

**SEN. GILLAN** informed the Committee that they were going to discuss an amendment by the House about contingent voidance. She requested **SEN. MCGEE** to comment.

**SEN. MCGEE** cited Page 2, Lines 19-21, of the bill. He indicated that these lines covered current law. He asserted that what they had intended to do with the bill, was move the National Guard out of a separate section and move it into the same section as the other people listed on Pages 1 and 2. He reported that in the Committee on Finance and Claims the language on Page 1 was stricken and the new language on Page 2, Lines 14-18, were added. He informed the Committee that the House had added Section 5, Page 3, the contingent voidance. He felt that the contingent voidance placed the National Guard in a worse situation in current law. What he was asking was to strip off the contingent voidance clause, because if it were to stay on, he was instructed to kill the bill.

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 3.5}*

**REP. GALVIN-HALCRO** wondered if Section 3, Page 2, Lines 19-21, would stay if the bill was to die.

**Ms. McClure** replied that if the bill died, the law would return to the current language.

**SEN. MANGAN** expressed support for **SEN. MCGEE**. He felt that the amendment on Lines 14-16 caused a fairness issue. He knew that there would be a problem with the University System. He thought that if tuition raises are an issue and money is an issue for the University System, the language would have to stay in. He believed that it would still be discretionary by the regents although they would have to find a way to hand out tuition credits to all of the different groups covered by the Fair and Equitable for All provision of the law. He indicated that if the University System felt that they had to pay for all of the tuition credits, it would be a policy choice.

*{Tape: 1; Side: A; Approx. Time Counter: 3.5 - 6.9}*

**REP. VILLA** came to the issue with the perspective of a student who would be paying the increase of 8% over the next biennium and also as a representative of students from around the state. He noted that one of the things they have continually seen is that while more and more tuition waivers are granted, those who pay the fees and registration costs are picking up the slack. He pointed out that this amendment would cause a \$20 increase every year of the biennium on tuition. He felt that if tuition credits and waivers were continually given out, the University System and

the legislature would have to look at the ramifications on the students. He believed that the current law took care of the waivers and credits. He expressed that, if they were going to exceed current law, then there needed to be funding, rather than passing the cost on to the students.

***{Tape: 1; Side: A; Approx. Time Counter: 6.9 - 8.2}***

**REP. GALVIN-HALCRO** clarified that it would be a \$20 increase per semester per student over the next two years of the biennium. She pointed out that veterans "shall" receive a waiver. She indicated that 80% of all of the reservists would be veterans and would thus fall under this provision. She expressed if they could not find the funding to help out all National Guardsmen, they would still be helping out 80% without having to add the contingent voidance clause. Additionally, she noted that if the projected money for education continues to grow there would be money available.

***{Tape: 1; Side: A; Approx. Time Counter: 8.2 - 10.4}***

**MADAM CHAIR GILLAN** asked if there was any money in HB 2 for the bill.

**SEN. MCGEE** replied that there wasn't any because the bill did not request any. He asserted that the only thing the bill did was move the National Guard from one section of the law to another. He reiterated that there was no request for appropriations. He added that not all Guardsmen who return would be entitled to the issue; they have to be qualified. He indicated that the Department of Military Affairs would have to set up rules by which a person could apply for a fee waiver. He agreed that it was not reasonable that the students should pick up all of the fee waivers.

***{Tape: 1; Side: A; Approx. Time Counter: 10.4 - 11.6}***

**SEN. MANGAN** agreed with **REP. VILLA** and **REP. GALVIN-HALCRO**. He felt that the Board of Regents in any other situation asks the legislature not to micromanage. Now, however, he felt that they want the legislature to step in and take over. He remarked that the Board of Regents did not have to make this move and if they had a problem with the money they could make a different choice. He wanted the Board of Regents to be responsible for their decisions.

***{Tape: 1; Side: A; Approx. Time Counter: 11.6 - 13.8}***

**REP. ANDERSON** stated how she understood the amendments. She said that by moving the National Guard into the certain category of waivers, couldn't the University System decide to cut back the amount given to different groups who also receive that category of waiver. She thought that they could take the current money that they were using for waivers, include the National Guard, and reduce the amount of waivers that are going to the other groups that are being funded.

**Eddye McClure, Legislative Fiscal Division**, responded that the amendment had to be a "may", a recommendation from the legislature. He indicated that it could not be a shall because it would be in the Board of Regents' area of authority. He noted that the Board tries to grant waivers to everyone on the list and not pick and choose.

**Rod Sunsted, Higher Education**, addressed the question **REP. ANDERSON** posed. He explained that they currently grant all of the waivers on their list to those who are available. He thought that it would be a possibility to develop a way to provide waivers to only part of the list or partial waivers to those on the list. One of the things he thought was confusing was that waivers were not an expense, but lost revenue.

*{Tape: 1; Side: A; Approx. Time Counter: 13.8 - 17.2}*

**REP. ANDERSON** stated that the move would not have to be an additional expense, waivers could be granted at the same level cost-wise.

**REP. VILLA** asserted that lost revenue would have to be made up through tuition and fees in order to uphold the University System's waivers.

**Motion:** **SEN. MCGEE** moved that SB 445 BE AMENDED BY STRIKING THE CONTINGENT VOIDANCE AMENDMENT FROM THE HOUSE'S AMENDMENTS.

**EXHIBIT** (ccs83sb0445a01)

**Discussion:** **REP. GALVIN-HALCRO** wondered if there was any way, if they struck the language, to guarantee that the next group of students would not have an addition to the fees and tuition.

**SEN. MCGEE** answered that the Department of Military Affairs must decide what the qualifications were and the person from the National Guard would have to apply for the waiver. He did not think that there was an immediate fee or tuition increase because there had to be three steps before any of the new waivers could take effect.

**REP. GALVIN-HALCRO** followed up by stating that they had already heard that the policy of the University System was that whoever was on the list would be granted a waiver. She felt that with another group being added to the list as a recruitment tool that would increase the number of individuals applying. She thought that the tuition and fees would have to increase in order to compensate.

***{Tape: 1; Side: A; Approx. Time Counter: 17.2 - 21.1}***

**SEN. MCGEE** expressed that at least one regent believed that they would have to go through and prioritize the list. One of the things he indicated that the Board of Regents would look at is the effect on the student population. He agreed that it was a significant issue and that the Board of Regents would be the correct ones to rule who would be granted a fee and tuition waiver. In his opinion, the amendment was a reflection of how they viewed the National Guard.

**SEN. MANGAN** commented that he did not think the National Guard had received waivers. He felt that they deserved the consideration.

**REP. WARD** agreed with **SEN. MANGAN**. He also agreed with the reality that **SEN. VILLA** had pointed out. He did not think that it would help one way or the other currently. He felt that they needed to prioritize their list, but felt that it was the Board of Regents' responsibility.

**REP. ANDERSON** wondered if the fee and tuition waiver was a recruitment tool for the National Guard or for the University System. She viewed it as a recruitment tool for the National Guard, and that not everyone who is recruited into the National Guard would be eligible for the waiver.

**REP. WARD** replied that it was a recruitment tool and retention tool for the National Guard. He indicated that it was used two-fold; 1) it would be used to recruit specific skills into the Guard and 2) to retain individuals who had developed skills.

***{Tape: 1; Side: A; Approx. Time Counter: 21.1 - 27}***

**REP. GALVIN-HALCRO** remarked that **REP. WARD** had talked about retaining current reservists because of the war. She reiterated that those who had gone to war would be granted a fee waiver under the current law.

**REP. WARD** responded that the National Guard had criteria set up to determine who would get the waiver, so not everyone would be eligible.

**REP. VILLA** announced that he was the one who had placed the contingent voidance clause in the House amendments. The purpose he gave for doing so was that it was a recognition that they could not allow the Board of Regents to perpetually pass the costs on to the students. He insisted that by stripping the clause from the bill they were saying that the Board of Regents' past practice is acceptable. He recognized that the National Guard has helped the state tremendously but, as a student who perpetually picks up the cost for the waivers, he felt that the legislature needs to speak up.

***{Tape: 1; Side: A; Approx. Time Counter: 27 - 29.4}***

**SEN. MANGAN** commented that they were not giving the Board of Regents free reign or promoting the past actions of the Board. He wanted the Board to be responsible for their decisions. He understood that they might need to find a way to get an appropriation for the bill. However, he understood that if they didn't pass this bill, it would force the Board to return next session and pass the cost on to the students for sure.

**MADAM CHAIR GILLAN** remarked that she would not support the motion. She agreed with most of the points made and had the utmost respect for the National Guard. However, she felt that there were only so many resources and the University could not accommodate everyone.

**Vote:** Motion carried 4-3 by roll call vote with **SEN. GILLAN**, **REP. GALVIN-HALCRO**, and **REP. VILLA** voting no.

**Motion/Vote:** **MADAM CHAIR GILLAN** moved that **CONFERENCE COMMITTEE REPORT ON SB 445 DO PASS**. Motion passed 4-3 with **SEN. GILLAN**, **REP. GALVIN-HALCRO**, AND **REP. VILLA** voting no.

***{Tape: 1; Side: A; Approx. Time Counter: 29.4 - 33}***

**ADJOURNMENT**

Adjournment: 9:15 A.M.

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SEN. KIM GILLAN, Chairman

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ANNIE GLOVER, Secretary

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BRITT NELSON, Transcriber

KG/ag/bn

Additional Exhibits:

**EXHIBIT ([ccs83sb0445aad0.PDF](#))**